

HOUSE BILL NO. 173

INTRODUCED BY K. DUDIK

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A BILL FOR AN ACT ENTITLED: "AN ACT EXPEDITING PERMANENCY FOR CHILDREN IN YOUTH IN NEED OF CARE CASES BY PROVIDING DEADLINES FOR TREATMENT PLANS AND PERMANENCY HEARINGS; AND AMENDING SECTIONS 41-3-443 AND 41-3-604, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 41-3-443, MCA, is amended to read:

**"41-3-443. Treatment plan -- contents -- changes.** (1) The court may order a treatment plan if:

- (a) the parent or parents admit the allegations of an abuse and neglect petition;
- (b) the parent or parents stipulate to the allegations of abuse or neglect pursuant to 41-3-434; or
- (c) the court has made an adjudication under 41-3-437 that the child is a youth in need of care.

(2) Every treatment plan must contain the following information:

- (a) the identification of the problems or conditions that resulted in the abuse or neglect of a child;
- (b) the treatment goals and objectives for each condition or requirement established in the plan. If the child has been removed from the home, the treatment plan must include but is not limited to the conditions or requirements that must be established for the safe return of the child to the family.
- (c) the projected time necessary to complete each of the treatment objectives;
- (d) the specific treatment objectives that clearly identify the separate roles and responsibilities of all parties addressed in the treatment plan; and
- (e) the signature of the parent or parents or guardian, unless the plan is ordered by the court.

(3) A treatment plan may include but is not limited to any of the following remedies, requirements, or conditions:

- (a) the right of entry into the child's home for the purpose of assessing compliance with the terms and conditions of a treatment plan;
- (b) the requirement of either the child or the child's parent or guardian to obtain medical or psychiatric diagnosis and treatment through a physician or psychiatrist licensed in the state of Montana;
- (c) the requirement of either the child or the child's parent or guardian to obtain psychological treatment

1 or counseling;

2 (d) the requirement of either the child or the child's parent or guardian to obtain and follow through with  
3 alcohol or substance abuse evaluation and counseling, if necessary;

4 (e) the requirement that either the child or the child's parent or guardian be restricted from associating  
5 with or contacting any individual who may be the subject of a department investigation;

6 (f) the requirement that the child be placed in temporary medical or out-of-home care;

7 (g) the requirement that the parent, guardian, or other person having physical or legal custody furnish  
8 services that the court may designate.

9 (4) A treatment plan may not be altered, amended, continued, or terminated without the approval of the  
10 parent or parents or guardian pursuant to a stipulation and order or order of the court.

11 (5) A treatment plan must contain a notice provision advising parents:

12 (a) of timelines for hearings and determinations required under this chapter;

13 (b) that the state is required by federal and state laws to hold a permanency hearing to determine the  
14 permanent placement of a child no later than 12 months after a judge determines that the child has been abused  
15 or neglected or 12 months after the first 60 days that the child has been removed from the child's home;

16 (c) that if a child has been in foster care for 15 of the last 22 months, state law presumes that termination  
17 of parental rights is in the best interests of the child and the state is required to file a petition to terminate parental  
18 rights; and

19 (d) that completion of a treatment plan does not guarantee the return of a child and that completion of  
20 the plan without a change in behavior that caused removal in the first instance may result in termination of  
21 parental rights.

22 (6) A treatment plan must be ordered by no later than the date of the dispositional hearing held pursuant  
23 to 41-3-438."

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25 **Section 2.** Section 41-3-604, MCA, is amended to read:

26 **"41-3-604. When petition to terminate parental rights required.** (1) If a child has been in foster care  
27 under the physical custody of the state for 15 months of the most recent 22 months, the best interests of the child  
28 must be presumed to be served by termination of parental rights. If a child has been in foster care for 15 months  
29 of the most recent 22 months or if the court has found that reasonable efforts to preserve or reunify a child with  
30 the child's parent or guardian are not required pursuant to 41-3-423, a petition to terminate parental rights must

1 be filed unless:

2 (a) the child is being cared for by a relative;

3 (b) the department has not provided the services considered necessary for the safe return of the child  
4 to the child's home; or

5 (c) the department has documented a compelling reason, available for court review, for determining that  
6 filing a petition to terminate parental rights would not be in the best interests of the child.

7 (2) Compelling reasons for not filing a petition to terminate parental rights include but are not limited to  
8 the following:

9 (a) There are insufficient grounds for filing a petition.

10 (b) There is adequate documentation that termination of parental rights is not the appropriate plan and  
11 not in the best interests of the child.

12 (3) If a child has been in foster care for 15 months of the most recent 22 months and a petition to  
13 terminate parental rights regarding that child has not been filed with the court, the department shall file a report  
14 to the court or review panel at least 3 days prior to the next hearing or review detailing the reasons that the  
15 petition was not filed.

16 (4) If a hearing results in a finding of abandonment or that the parent has subjected the child to any of  
17 the circumstances listed in 41-3-423(2)(a) through (2)(e) and that reasonable efforts to provide preservation or  
18 reunification are not necessary, unless there is an exception made pursuant to subsections (1)(a) through (1)(c)  
19 of this section, a petition to terminate parental rights must be filed within 60 days of the finding.

20 (5) If an exception in subsections (1)(a) through (1)(c) of this section applies, a petition for an extension  
21 of temporary legal custody pursuant to 41-3-438, a petition for long-term custody pursuant to 41-3-445, or a  
22 petition to dismiss must be filed.

23 (6) A hearing on a petition for termination of parental rights must be held no later than 30 days from the  
24 date the petition was filed."

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